

Introduced by Senator DeSaulnier

February 21, 2014

An act to amend Sections 53395.3 and 53395.5 of the Government Code, and to amend Sections 34191.26 and 34191.31 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1260, as introduced, DeSaulnier. Local government: affordable housing.

Existing law authorizes a city or county to establish infrastructure financing districts to finance specified types public facilities.

Existing law requires any district that constructs dwelling units to set aside not less than 20% of those units to increase and improve the community's supply of low- and moderate-income housing available at an affordable housing cost to persons and families of low- and moderate-income.

This bill would eliminate the requirement of a district that constructs dwelling units to set aside not less than 20% of those units for the purpose described above.

Existing law requires the legislative body of the district, if dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, to, among other things, cause or require the construction or rehabilitation, within 4 years of the removal or destruction, for rental or sale to persons or families of low or moderate income, an equal number of replacement dwelling units at affordable housing cost, as specified, and a number of dwelling units that is at least one unit but not less than 20% of the total dwelling units removed at affordable cost, as specified.

This bill would instead require the district to dedicate no less than 25% of allocated tax increment revenues for affordable housing purposes in accordance with the applicable affordable housing provisions of the Community Redevelopment Law. This bill would require the district to ensure that the number of housing units occupied by extremely low, very low, and low-income households in the area of the district is not reduced during the effective period of the district, to ensure the replacement of dwelling units that house extremely low, very low, or low-income households within 2 years of their removal by public or private action from the area of the district, and to ensure that during the effective period of the district at least 20% of all new and substantially rehabilitated dwelling units developed are available at affordable housing cost to, and occupied by, persons and families of low or moderate income. This bill would require the district to require that housing units built remain available at affordable housing cost to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, as provided. This bill would also require the district to contract for an independent financial and performance audit every 5 years pursuant to guidelines established by the Controller, as provided.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved community redevelopment agencies, as of February 1, 2012, and provides for the designation of successor agencies.

Senate Bill 1 of the 2013–14 Regular Session, if enacted, would authorize certain public entities of a Sustainable Communities Investment Area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would require the authority to adopt a Sustainable Communities Investment Plan for a Sustainable Communities Investment Area, and would authorize the authority to include in that plan a provision for the receipt of tax increment funds provided that certain economic development and planning requirements are met, including, among others, a requirement in an ordinance for the replacement of dwelling units that house extremely low, very low, and low-income households, as specified. The bill would require the authority to contract for an independent financial and performance audit every 5 years, conducted according to guidelines established by the Controller. The bill would, where compliance has

not been achieved, require the authority to adopt and submit to the Controller, as part of the audit, a plan to achieve compliance with the economic development and planning requirements, which includes, among other things, a means of achieving an increase in the production of housing for very low income households as required by other provisions of this bill.

This bill would require the low-income housing ordinance to require the replacement of dwelling units that house extremely low, very low, and low-income households within 2 years of their removal by public or private action, and to also require, prior to the time limit on the effective period of the Sustainable Communities Investment Plan, that at least 20% of all new and substantially rehabilitated dwelling units developed in the Sustainable Communities Investment Area meet specified affordability and occupancy requirements.

This bill would make the operation of its provisions contingent upon the enactment of specified bills.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53395.3 of the Government Code is
2 amended to read:
3 53395.3. (a) A district may finance (1) the purchase,
4 construction, expansion, improvement, seismic retrofit, or
5 rehabilitation of any real or other tangible property with an
6 estimated useful life of 15 years or longer which satisfies the
7 requirements of subdivision (b), (2) may finance planning and
8 design work which is directly related to the purchase, construction,
9 expansion, or rehabilitation of that property and (3) the costs
10 described in Sections 53395.5, and 53396.5. A district may only
11 finance the purchase of facilities for which construction has been
12 completed, as determined by the legislative body. The facilities
13 need not be physically located within the boundaries of the district.
14 A district may not finance routine maintenance, repair work, or
15 the costs of ongoing operation or providing services of any kind.
16 (b) The district shall finance only public capital facilities of
17 communitywide significance, which provide significant benefits
18 to an area larger than the area of the district, including, but not
19 limited to, all of the following:

1 (1) Highways, interchanges, ramps and bridges, arterial streets,
2 parking facilities, and transit facilities.

3 (2) Sewage treatment and water reclamation plants and
4 interceptor pipes.

5 (3) Facilities for the collection and treatment of water for urban
6 uses.

7 (4) Flood control levees and dams, retention basins, and drainage
8 channels.

9 (5) Child care facilities.

10 (6) Libraries.

11 (7) Parks, recreational facilities, and open space.

12 (8) Facilities for the transfer and disposal of solid waste,
13 including transfer stations and vehicles.

14 ~~(c) Any district which constructs dwelling units shall set aside~~
15 ~~not less than 20 percent of those units to increase and improve the~~
16 ~~community's supply of low- and moderate-income housing~~
17 ~~available at an affordable housing cost, as defined by Section~~
18 ~~50052.5 of the Health and Safety Code, to persons and families of~~
19 ~~low- and moderate-income, as defined in Section 50093 of the~~
20 ~~Health and Safety Code.~~

21 SEC. 2. Section 53395.5 of the Government Code is amended
22 to read:

23 53395.5. It is the intent of the Legislature that ~~the area of the~~
24 ~~districts created be substantially undeveloped, and the~~
25 establishment of a district should not ordinarily lead to the removal
26 of existing dwelling units. ~~If, however, any dwelling units are~~
27 ~~proposed to be removed or destroyed in the course of private~~
28 ~~development or public works construction within the area of the~~
29 ~~district, the legislative body shall do all of the following: and~~
30 ~~should increase and improve the community's supply of low- and~~
31 ~~moderate-income housing available at an affordable housing cost,~~
32 ~~as defined by Section 50052.5 of the Health and Safety Code, to~~
33 ~~persons and families of low and moderate income, as defined in~~
34 ~~Section 50093 of the Health and Safety Code.~~

35 ~~(a) Within four years of the removal or destruction, cause or~~
36 ~~require the construction or rehabilitation, for rental or sale to~~
37 ~~persons or families of low or moderate income, of an equal number~~
38 ~~of replacement dwelling units at affordable housing cost, as defined~~
39 ~~in Section 50052.5 of the Health and Safety Code, within the~~
40 ~~territory of the district if the dwelling units removed were inhabited~~

1 by persons or families of low or moderate income, as defined in
2 Section 50093 of the Health and Safety Code.

3 ~~(b) Within four years of the removal or destruction, cause or~~
4 ~~require the construction or rehabilitation, for rental or sale to~~
5 ~~persons of low or moderate income, a number of dwelling units~~
6 ~~which is at least one unit but not less than 20 percent of the total~~
7 ~~dwelling units removed at affordable housing cost, as defined in~~
8 ~~Section 50052.5 of the Health and Safety Code, within the territory~~
9 ~~of the district if the dwelling units removed or destroyed were not~~
10 ~~inhabited by persons of low or moderate income, as defined in~~
11 ~~Section 50093 of the Health and Safety Code.~~

12 *(a) The district shall dedicate no less than 25 percent of*
13 *allocated tax increment revenues for affordable housing purposes*
14 *in accordance with Section 33334.2 and all other applicable*
15 *affordable housing provisions of the Community Redevelopment*
16 *Law (Part 1 (commencing with Section 33000)).*

17 *(b) The district shall ensure that the number of housing units*
18 *occupied by extremely low, very low, and low-income households,*
19 *including the number of bedrooms in those units, in the area of*
20 *the district at the time the district is established is not reduced*
21 *during the effective period of the district.*

22 *(c) The district shall ensure the replacement pursuant to*
23 *subdivision (a) of Section 33413 of dwelling units that house*
24 *extremely low, very low, or low-income households within two*
25 *years of their removal by public or private action from the area*
26 *of the district.*

27 *(d) The district shall ensure that during the effective period of*
28 *the district at least 20 percent of all new and substantially*
29 *rehabilitated dwelling units developed in the area of the district*
30 *by public or private entities or persons, excluding any units*
31 *developed to meet the requirements of subdivisions (b) and (c),*
32 *shall be available at affordable housing cost to, and occupied by,*
33 *persons and families of low or moderate income. Not less than 40*
34 *percent of the dwelling units required to be available at affordable*
35 *housing cost to, and occupied by, persons and families of low or*
36 *moderate income shall be available at affordable housing cost to,*
37 *and occupied by, very low income households.*

38 ~~(e) Provided~~

39 *(e) The district shall provide relocation assistance and make all*
40 *the payments required by Chapter 16 (commencing with Section*

7260) of Division 7 of Title 1, to persons displaced by any public or private development occurring within the territory of the district. This displacement shall be deemed to be the result of public action.

~~(d) Ensure~~

(f) The district shall ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families and shall be decent, safe, sanitary, and otherwise standard dwellings.

(g) (1) Except as provided in paragraph (2), the district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing cost to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(2) In lieu of a 45-year covenant or restriction, the district may subject owner-occupied units to an equity sharing agreement described in paragraph (2) of subdivision (c) of Section 65915.

(h) (1) Every five years the district shall contract for an independent financial and performance audit. The audit shall be conducted according to guidelines established by the Controller. A copy of the completed audit shall be provided to the Controller, the Director of the Department of Finance, and to the Joint Legislative Budget Committee. The Controller shall not be required to review and approve the completed audits.

(2) The guidelines established by the Controller shall include guidelines for determining compliance with the affordable housing production, maintenance, and replacement requirements of this section, including provisions to ensure that the requirements are met within each five-year period covered by the audit. A finding of failure to comply with the requirements of this section shall require the district to adopt and submit to the Controller, as part of the audit, a plan to achieve compliance with those provisions as soon as feasible but in not less than two years following the findings. The Controller shall review and approve the plan, and

1 *shall require the plan to stay in effect until compliance is achieved.*
2 *The Controller shall ensure that the plan includes one or more of*
3 *the following means of achieving compliance:*

4 (A) *The expenditure of an additional 10 percent of gross tax*
5 *increment revenue for increasing, preserving, and improving the*
6 *supply of low-income housing.*

7 (B) *An increase in the production, by an additional 10 percent,*
8 *of housing for very low income households as required by*
9 *subdivision (d).*

10 (C) *The targeting of expenditures pursuant to Section 33334.2*
11 *exclusively to rental housing affordable to, and occupied by,*
12 *persons of very low and extremely low income.*

13 SEC. 3. Section 34191.26 of the Health and Safety Code, as
14 added by Senate Bill 1 of the 2013–14 Regular Session, is amended
15 to read:

16 34191.26. A Sustainable Communities Investment Plan may
17 include a provision for the receipt of tax increment funds according
18 to Section 33670, provided that the local government with land
19 use jurisdiction has adopted all of the following:

20 (a) A sustainable parking standards ordinance that restricts
21 parking in transit priority project areas to encourage transit use to
22 the greatest extent feasible.

23 (b) An ordinance creating a jobs plan that requires all entities
24 receiving financial support from the authority to enter into an
25 agreement with the authority describing how the project will do
26 both of the following:

27 (1) Further construction careers that pay prevailing wages and
28 create living wage permanent jobs.

29 (2) Implement a program for community outreach, local hire,
30 and job training that includes disadvantaged California residents,
31 including veterans of the Iraq and Afghanistan wars, people with
32 a history in the criminal justice system, and single-parent families.

33 (c) For transit priority project areas and small walkable
34 communities within a metropolitan planning organization, a plan
35 consistent with the use designation, density, building intensity,
36 and applicable policies specified for the Sustainable Communities
37 Investment Area in the sustainable communities strategy.

38 (d) Within small walkable communities outside a metropolitan
39 planning organization, a plan for new residential construction that
40 provides a density of at least 20 dwelling units per net acre and,

1 for nonresidential uses, provides a minimum floor area ratio of
2 0.75.

3 (e) An ordinance that does ~~both~~ *all* of the following:

4 (1) Prohibits the number of housing units occupied by extremely
5 low, very low, and low-income households, including the number
6 of bedrooms in those units, in the Sustainable Communities
7 Investment Area at the time the Sustainable Communities
8 Investment Authority is established from being reduced during the
9 effective period of the Sustainable Communities Investment Plan.

10 (2) Requires the replacement, *pursuant to subdivision (a) of*
11 *Section 33413*, of dwelling units that house extremely low, very
12 low, or low-income ~~households~~, *households within two years* upon
13 *their removal by public or private action* from the Sustainable
14 Communities Investment Area, ~~pursuant to subdivision (a) of~~
15 ~~Section 33413 within two years of their displacement.~~

16 (3) *Notwithstanding subdivision (b) of Section 33413, requires*
17 *that prior to the time limit on the effective period of the Sustainable*
18 *Communities Investment Plan at least 20 percent of all new and*
19 *substantially rehabilitated dwelling units developed in the*
20 *Sustainable Communities Investment Area by public or private*
21 *entities or persons, excluding any units developed to meet the*
22 *requirements of paragraphs (1) and (2), shall be available at*
23 *affordable housing cost to, and occupied by, persons and families*
24 *of low or moderate income. Not less than 40 percent of the dwelling*
25 *units required to be available at affordable housing cost to, and*
26 *occupied by, persons and families of low or moderate income shall*
27 *be available at affordable housing cost to, and occupied by, very*
28 *low income households.*

29 SEC. 4. Section 34191.31 of the Health and Safety Code, as
30 added by Senate Bill 1 of the 2013–14 Regular Session, is amended
31 to read:

32 34191.31. (a) Every five years the authority shall contract for
33 an independent financial and performance audit. The audit shall
34 be conducted according to guidelines established by the Controller.
35 A copy of the completed audit shall be provided to the Controller,
36 the Director of the Department of Finance, and to the Joint
37 Legislative Budget Committee. The Controller shall not be required
38 to review and approve the completed audits.

39 (b) The guidelines established by the Controller shall include
40 guidelines for determining compliance with the affordable housing

1 maintenance and replacement requirements of subdivision (e) of
2 Section 34191.26, including provisions to ensure that the
3 requirements are met within each five-year period covered by the
4 audit. A finding of failure to comply with the requirements of
5 subdivision (e) of Section 34191.26 shall require the authority to
6 adopt and submit to the Controller, as part of the audit, a plan to
7 achieve compliance with those provisions as soon as feasible but
8 in not less than two years following the findings. The Controller
9 shall review and approve the plan, and require the plan to stay in
10 effect until compliance is achieved. The Controller shall ensure
11 that the plan includes one or more of the following means of
12 achieving compliance:

13 (1) The expenditure of an additional 10 percent of gross tax
14 increment revenue on increasing, preserving, and improving the
15 supply of low-income housing.

16 (2) An increase in the production, by an additional 10 percent,
17 of housing for very low income households as required by
18 paragraph ~~(2)~~ (3) of subdivision ~~(b)~~ (e) of Section ~~33413~~ 34191.26.

19 (3) The targeting of expenditures pursuant to Section 33334.2
20 exclusively to rental housing affordable to, and occupied by,
21 persons of very low and extremely low income.

22 SEC. 5. Sections 1 to 4, inclusive, of this act shall only become
23 operative if Senate Bill 1 of the 2013–14 Regular Session, and any
24 of the following bills, become operative:

25 (a) Senate Bill 33 of the 2013–14 Regular Session.

26 (b) Senate Bill 628 of the 2013–14 Regular Session.

27 (c) Assembly Bill 229 of the 2013–14 Regular Session.

28 (d) Senate Bill 243 of the 2013–14 Regular Session.